

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

MACMA.No.231 of 2006

JUDGMENT:

The New India Assurance Company Limited – respondent No.3 in M.V.O.P.No.1376 of 1998 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-Prl. District Judge, Khammam (for short 'the Tribunal'), preferred the present appeal questioning the award and decree, dated 29.12.2004, passed in the said O.P., on the main ground that the Tribunal was not right in fastening the liability on the 3rd respondent-Insurance Company though the risk of claimant-1st respondent herein was not covered under the policy, and, therefore, sought to set aside the award and decree.

2. The fact situation is not in dispute. The accident did occur when the petitioner was travelling in a tractor and trailer as a coolie along with other coolies and reached near the outskirts of Patharlapadu Village, the driver of tractor drove the vehicle in a rash and negligent manner, due to which, the tractor turned turtle and the claimant along with others sustained grievous injuries. He laid a claim for Rs.80,000/- under Section 166 of the Motor Vehicles Act, 1988.

3. Heard Sri B.Narayana Reddy, learned counsel for the appellant submits that the 1st respondent/claimant was travelling in the offending vehicle as owner of the goods, as such, he is not covered under Ex.B2, insurance policy; that the Tribunal erroneously fixed the liability on the appellant without

considering the evidence of RW3 and the evidence led by appellant/insurance company.

4. In this case it is to be seen that Ex.A1-Certified Copy of FIR in crime No.17/1998, Ex.A2-charge sheet clearly shows that the 1st respondent/claimant along with others were travelling in the offending vehicle as coolies. Though there is oral evidence of RW3 stating otherwise, the Court below after considering the evidence of RWs.1 to 3 came to the conclusion that the 1st respondent/claimant was travelling as 'coolie' in the offending vehicle, as a result, he sustained injuries. The Tribunal by relying on several Judgments and analysing the evidence, came to such conclusion, as such, no infirmity is drawn in the said finding. More so, this Court has granted interim stay on condition of the appellant depositing 50% of the amount awarded by the Tribunal and also granted permission to the respondent No.1/claimant to withdraw the same.

5. In view of the above, I do not see any reason to interfere with the award granted by the Tribunal.

6. Accordingly, the appeal is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

09.03.2018
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